MYSORE PROHIBITION BILL, 1959 CLAUSE BY CLAUSE CONSIDERATION—*contd.*

Sri M. C. NARASIMHAN (K.G.F.) Yesterday on the Prohibition Bill, I was submitting a point speaking on Mr. Pinto's amendment.

Mr. SPEAKER.—There was some confusion.

Sri M. C. NARASIMHAN.—What I wish to submit is, you were pleased to say that the amendment was consequential. I beg to submit that it is not consequencial.

Mr. SPEAKER.—Whether it is consequential or not, he has moved it. Whether Government is going to accept it or not is the point now before us.

Yesterday, I did not put the motion for extension of time to the House. All of us were in a hurry and the Hon'ble Leader of the Opposition made the motion. I will now put the motion to the House. The question is :

"That the time allotted for the Bill be extended up to the end of this day."

The motion was adopted

†Sri G. VENKATAI GOWDA (Paliayam).—Sir, The amendment suggested by my Hon'ble friend Mr. Pinto is somewhat strange. The proviso, if I can submit to the House reads like this:

"Provided that the State Government or the Deputy Commissioner is satisfied that the use of such liquor is required in accordance with the religious tenets of the community to which such person belongs."

The amendment is: 'After the word 'use' in line three of subclause (1) and line two of the proviso, the words 'and manufacture shall be insterted."

Sri J. B. MALLARADHYA (Nanjangud).—Sir, if my Hon'ble friend Mr. Pinto will be willing to withdraw the amendment, I think a lot of discussion will be saved. Otherwise, four or five members on this side will have to speak on the amendment. I therefore make an appeal to Mr. Pinto to kindly withdraw the amendment so that we may take up more important amendments.

Mr. Sri F. X. DENSIS PINTO (Mangalore).—Sir, I beg leave of the House to withdraw the amendment.

Sri C. J. MUCKANNAPPA (Sira).—Sir, my friend Sri Venkatai Gowda is on his legs offering observations. Should you not allow him to complete his speech?

Mr. SPEAKER.—Sri Muckannappa need not interfere. Sri G. Venkatai Gowda can take care of himself and the Chief can also take care of itself. It is quite clear that when Hon'ble Member is making observations, till he finishes, withdrawal by Sri Pinto does not arise.

Sri G. VENKATAI GOWDA.—I was just submitting that the insertion of the words 'and manufacture' would defeat the very purpose with which the amendment is brought because it would qualify clause 36. The intention with which the proviso is inserted is for this:

'the use of such liquor is required in accordance with the religious tenets in India'.

My agrument is, if the religious tenets required it, there is provision included in the Bill. It will be absurd if one wants to make out that the religious tenets require the *manufacture* of such liquor. Therefore I submit that as my friend has already suggested, it is better for the mover to withdraw the amendment.

Mr. SPEAKER.—I would like to know whether Sri Pinto is going to withdraw.

Sri F. X. DENIS PINTO.—Sir. I beg leave of the House to withdraw the amendment.

The amendment was by leave of the Assembly withdrawn.

Mr. SPEAKER.—I will now put the clause to the House.

The question is:

"That Clause 36 as amended stand part of the Bill."

The motion was adopted.

Clause 36 as amended was added to the Bill.

Mr. SPEAKER.—Clause 37. The question is:

"That Clause 37 stand part of the Bill."

The motion was adopted.

Clause 37 was added to the Bill.

Mr. SPEAKER.—Clause 38. There was an amendment tabled. It is not in order. I therefore put the clause to the House. The question is

"That Clause 38 stand part of the Bill."

The motion was adopted.

Clause 38 was added to the Bill.

Clause 39.

Mr. SPEAKER.—Clause 39. There is an amendment. It may be moved.

Sri V. SRINIVASA SHETTY (Coondapur).—Sir, I beg to move:

"That in Sub-Clause(1), the words 'or in any room in a hotel' shall be deleted".

Mr. SPEAKER.—Amendment moved:

"That in Sub-Clause (1), the words 'or in any room in a hotel' shall be deleted."

Sri Narasimhan also has a similar amendment.

†Sri V. SRINIVASA SHETTY.—Sir, Clause 39 deals with regulation of use or consumption of foreign liquor by certain permit-holders. It reads thus:

> "(1) No holder of a permit granted under any of the provision of this Act, other than section 38, shall drink in a public place, in any vehicle parked in a public place or in any room in a hotel or any institution to which the public may have access."

I do not know whether my Hon'ble friend the Minister for Excise has considered this point. Generally permits for foreign tourists. I do not know, when they come, they have generally to remain in hotels, not in private houses. Ordinarily they reside in hotels. If they are debarred from drinking this liquor for which they hold permits in hotel rooms, they cannot drink in public places, they cannot drink in vehicles parked in public places and they cannot drink in any place which may have access to the public. If they have no places even any room of hotel, what would be the result ?

I do not know where the Minister wants these people to drink or whether he wants them to go underground and drink. Ludicracy should not be taken to such an extent that even a room is prohibited to them for drinking purposes.

Sri VEERENDRA PATIL.—I am sorry the Hon'ble Member has not correctly understood this provision. It is not the intention of the Government to prohibit drinking in any room in a hotel. The term "to which the public may have access" applies not only to an institution but also to any room in a hotel. He can drink in a room in a hotel, but there should not be any access to the public to that room. There are rooms in hotels like lounges and drawing rooms and in such a place they cannot drink. That is the intention of Government.

Sri J. B. MALLARADHYA.—It must be within the knowledge of the Minister that when foreigners come for transacting business, they get in their rooms people to discuss matters of business. If half a dozen people come there; would you say that, that room is not a place to which the public have access?

Sri M. C. NARASIMHAN.—The mistake has arisen because you have not copied section 15 of the Bombay Act. It provides for licencing certain hotels which can serve. Since you have not provided for that, if you have this particular provision here it will create difficulty.

Sri M. RAMAPPA.—I do not think the Minister has been able to appreciate the point raised. The term "to which the public may have access" does not cover both a room in a hotel and an institution; it covers only an institution.

Sri VEERENDRA PATIL.—I have already made it clear that the last portion "to which the public may have access" refers not only to institution but also to a room in a hotel.

Sri V. SRINIVASA SHETTY.— But the court will not hold like that.

Sri G. VENKATAI GOWDA.—The term "any institution to which the public may have access" also include hotel and so it is better to debate the words "in any room in a hotel" because a hotel is also an institution where public have access.

Sri VEERENDRA PATIL.—Rooms hired by customers in a hotel cannot be said to be places to which the public have access because they cannot enter a room occupied by a customer.

Sri G. VENKATAI GOWDA.—The intention of the Minister is not carried out by the use of the words "in any room in a hotel". If the public have no access to any room in a hotel, there is no question of having these particular words interested here. If a hotel is understood as a place where the public have access, then the later portion of the clause will serve the purpose. So I request the Minister to agree to the deletion of the words "in any room in a hotel."

Sri VEERENDRA PATIL.—I have already expressed my view. I cannot accept this amendment.

Mr. SPEAKER.—There is some force in what they say. The phrase "to which the public may have access" qualifies "hotel or any institution" and so it would mean "Hotel or any institution to which the public may have access" and it will not apply to "any room in a hotel".

Sri VEERENDRA PATIL.—There are certain rooms in hotels like drawing room and lounge to which the public have access.

Mr. SPEAKER.—Then you should put it like this: "in any room to which the public may have access in a hotel or an institution".

Sri VEERENDRA PATIL.— I have no objection.

Mr. SPEAKER.— We shall consider this question after tea.

The House now raises and will meet after half-an-hour.

The House adjourned for recess at Ten of the Clock and reassembled at Forty Minutes Past Ten of the Clock.

[Mr. SPEAKER in the Chair]

Sri VEERENDRA PATIL.—Sir, with your permission, I wish to suggest the following amendment to satisfy my friend. For the words "in a public place or in any room in a hotel or any institution to which the

public may have access", the following words may be substituted: "in a public place, or in the rooms of a place or institution, to which the public may have access."

Sri J. B. MALLARADHYA.—Rooms of a institution?

Sri VEERENDRA PATIL.—Rooms of a hotel or institution.

Mr. SPEAKER.—Rooms of a hotel or institution to which the public may have access — the intention of the Government is clear.

Sri V. SRINIVASA SHETTY.—To obviate the difficulties.....

Mr. SPEAKER.—We can have it like this. "In any room in a hotel or in any institution provided the public have access to room or such an institution."

Sri V. SRINIVASA SHETTY.—That will make it clear.

Mr. SPEAKER.—In any room in a hotel or in an institution provided the public have access to such a room—it will cover both.

Sri VEERENDRA PATIL.—I accept that amendment.

Mr. SPEAKER.—The question is:

"That for the words 'in any room in a hotel or any institution to which the public may have access' the following words may be sub tituted: "in any room in a hotel or an institution provided the public have access to such room".

The amendment was adopted.

Mr. SPEAKER.—The question is:

"That Clause 39 as amended stand part of the Bill.

The motion was adopted.

Clause 39 as amended was added to the Bill

Clauses 40, 41 *and* 42

Mr. SPEAKER.—The question is:

"That Clauses 40, 41 and 42 stand part of the Bill".

The motion was adopted.

Clauses 40, 41 and 42 were added to the Bill.

Clause 43

Mr. SPEAKER.—Clause 43. There is an amendment. It may be moved.

Sri V. SRINIVASA SHETTY.—Sir, I beg to move:

"that the following proviso shall be added to sub-clause (1):

"Provided that no manufacturer of jaggery from sugarcane shall be liable for possession of molasses which is the by-product of the process."

Mr. SPEAKER.—The amendment moved:

"that the following proviso shall be added to sub-cause (1)

"Provided that no manufacturer of jaggery from sugarcane shall be liable for possession of molasses which is the by product of the process."

†Sri V. SRINIVASA SHETTY.—Sir, I do not question the intentions of the Government. But they have missed one important aspect of the case. They are obessed with the idea of distillation alone. But we all know the difficulties this provision will cause to agriculturists. There are lakhs and lakhs of agriculturists who cultivate sugarcane. Some of the cultivators of sugarcane supply came to sugarcane factories. But the vast majority of sugarcane growers manufacture jaggery, and these molasses is a by-product of the manufacture of jaggery. If this provision is allowed to stand where it is, all these lakhs and lakhs of persons in villages are liable to be prosecuted under section 43. There is no escape clause also. I suggest, in the interests of the vast number of agriculturists, to exempt *bona fide* cultivators of sugarcane if they manufacture jaggery. I do not plead for all those persons who do not cultivate sugarcane, but still possess molasses. Such persons may be prosecuted. But *bona fide* manufacturers of jaggery who cultivate sugarcane may be exempted from proseeution for possessing molasses. Every sugarcane grower and manufacturer of jaggery is necessarily open to prosecution for possessing molasses. But he should not be prosecuted. I request the Government to consider the vast number of sugarcane growers who may be hard hit if this clause is retained as it is. My amendment is to exempt *bona fide* cultivators possessing molasses.

† Sri VEERENDRA PATIL.—Sir, it is not the intention of Government to harass the *bona fide* sugarcane cultivators. The amendmet moved by Hon'ble Sri Srinivas Shetty is to give exemption totally to the sugarcane cultivators for the possession of molasses as it is a by-product of jaggery manufacture. But many people may try to escape if this amendment is accepted.

Sri V. SRINIVASA SHETTY.—How can he escape ?

Sri VEERENDRA PATIL.—Because it is not defiend in the amendment what should be the quantity that should be exempted. A person may have in his possession five, ten or fifty tons of molasses, and he will put forward the plea that this is the by product he got of jaggery produeed by him. So this excuse will serve him to escape this provision. If the Hon'ble Member is prepared to further amend by adding the words not in excess of such and such quantity as may be prescribed, his amendment can be considered. Besides, under the Act, there is provision. I invite the attention of the Hon'ble Member to

clause 123 (c), general powers of State Government in respect of licences, etc."

> "exempt any person or institution or any class of persons or institutions from the observance of all or any of the provisions of this Act, or any rule or regulation or order made thereunder".

While framing the rules, we can give exemption to such *bona fide* sugarcane cultivators under this provision. If the Hon'ble Member insists that his amendment should be accepted, if he agrees for a further amendment by adding the words not in excess of a certain quantity as may be prescribed, it may be considered. We should prescribe what should be the quantity. Suppose a persons has in his possession five or ten tons of molasses, he will have a good excuse by saying that this quantity is the by-product of the jaggery he manufactured So, we do not want to give any room for such an excuse. Therefore, if the Hon'ble Member agrees to this further amendment, then we will consider. If he does not agree, I want to assure him that it is not the intention of the Government to harass *bona fide* sugarcane cultivators. We are thinking of giving exemption to the *bond fide* cultivators under sub-clause (c) of clause 123.

† ಶ್ರೀ ಜೆ. ಬಿ. ಮಲ್ಲಾರಾಧ್ಯ (ನಂಜನಗೂಡು).—ಈಗ ಈ ಕ್ಲಾಪ್ ಯಾವ ಸ್ಥಿತಿಯಲ್ಲಿದೆಯೋ ಅದೇ ಸ್ಥಿತಿಯಲ್ಲಿರುವುದಕ್ಕೆ ಬಿಟ್ಟುಬಿಟ್ಟರೆ ಮುಂದೆ ಇದರಿಂದ ಕಬ್ಬನ್ನು ಬೆಳೆಯುವ ರೈತನಿಗೆ ತುಂಬಾ ಹರಾಸ್‌ಮೆಂಟಿಗೆ ಕಾರಣವಾಗುತ್ತದೆ. ಈಗ ಹೇಳಿರತಕ್ಕ ಅಂಶವನ್ನು ಸರ್ಕಾರದವರು ಯಾವ ಆಧಾರದ ಮೇಲೆ ಪ್ರಿಸ್‌ಕ್ರೈಬ್ ಮಾಡಿದ್ದಾರೆ! ಎಷ್ಟು ಜಮೀನಿನಲ್ಲಿ ಎಷ್ಟು ಬೆಳೆ ಇಟ್ಟರೆ ಅದರಿಂದ ಎಷ್ಟು ಸುಗರ್ ಬರುತ್ತೆ, ಎಷ್ಟು ಮೊರ್ಯಾಸಸ್ ಬರುತ್ತೆ ಎಂಬುದನ್ನು ಯಾರೂ ಇಲ್ಲಿಯವರೆಗೆ ಶಾಸ್ತ್ರೀಯವಾಗಿ ನಿಗದಿ ಮಾಡಿಲ್ಲ. ಹಾಗಿರುವಾಗ ಇದನ್ನು ನಾವು ಹೇಗೆ ಒಪ್ಪುವುದಕ್ಕಾಗುತ್ತದೆ? ಇದರಿಂದ ಮುಂದೆ ವಿನಾಕಾರಣ ಬೋನಾಫೈಡ್ ಸುಗರ್ ಕೇನ್ ಕಲ್ಟಿವೇಟರುಗಳಿಗೆ ಬಹಳ ತೊಂದರೆಯಾಗುತ್ತದೆ. ಆದರೆ ಈಗ ನಮ್ಮ ಉದ್ದೇಶವೇನಿದೆ ಎಂದರೆ ಅನವಶ್ಯಕವಾಗಿ ಯಾವ ರೈತರಿಗೂ ಈ ಕಾನೂನುಗಳಿಂದ ತೊಂದರೆ ಆಗುವಾರದು ಎಂಬ ಉದ್ದೇಶ ವಿನಾ ಮತ್ತೆ ಬೇರೆ ಏನೂ ಇಲ್ಲ.

ಶ್ರೀ ವೀರೇಂದ್ರ ಪಾಟೀಲ್.—ಆದರೆ ನಾವು ಒಂದು ಟನ್ ಕಬ್ಬಿನಲ್ಲಿ ಎಷ್ಟು ಜಾಗರಿ ಅಥವಾ ಸುಗರ್ ಬರುತ್ತೆ ಮತ್ತು ಅದರಿಂದ ಎಷ್ಟು ಮೊರ್ಯಾಸೆಸ್ ಬರುತ್ತೆಂಬುದನ್ನೂ ಎಷ್ಟು ಜನ ಕಬ್ಬು ಬೆಳೆಯುತ್ತಾರೆಂಬುದನ್ನೂ ಕಂಡುಹಿಡಿಯಬಹುದು. ಆನಂತ ಈ ಮೊಲೇಸಸ್ ವಿಚಾರದಲ್ಲಿ ಒಂದು ಡಿಸ್ಕ್ರಿಷನ್ ಯೂಸ್ ಮಾಡಿ ಆ ಒಗ್ಗೆ ರೂಲ್ಸಿನಲ್ಲಿ ಪ್ರೊವೈಡ್ ಮಾಡಬಹುದು.

† Sri V. SRINIVASA SHETTY.—Sir, it is not my intention to see that people are in possession of molasses for the purpose of manufacturing illicit liquor. But, as the provision stands, the agriculturists who are not an inconsiderable number will be affected. I see that the Hon'ble Minister is quite sencere in his assurance that proper rules will be made, but they have no right under the substantive Act at all. The rules are to be framed God alone knows when and by whom and nobody

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looks into them. Though the law says that they will be placed before the Assembly and that members have a right to look into them and suggest amendments, in 99 per cent of the cases we are not in a position to look into them. It is not possible to look into them also. I do not know whether anybody has scientifically studied what will be amount of molasses that will come out of one ton of sugar. Looking into all these aspects, Government may frame rules. This is the best I can get from Government. With this observations, I agree to amendment proposed by the Minister.

Sri VEERENDRA PATIL.—Sir, I beg to move—

In the amendment of Sri Srinivasa Shetty, add at the end the words "and is not in excess of such quantity as may be prescribed".

Mr. SPEAKER.—The question is "That add at the end of Sri Srinivasa Shetty's amendment the words "and is not in excess of such quantity as may be prescribed".

The motion was adopted.

Mr. SPEAKER.—The question is—

"That the following proviso shall be added to sub-clause (1)—

"Provided that no manufacturer of jaggery from sugarcane shall be liable for possession of molasses which is the by-product of the process".

The motion was adopted.

Mr. SPEAKER.—Sri Puttanna's amendment to this Clause is not admissible.

The question is

"That Clause 43, as amended, stand part of the Bill."

The motion was adopted.

Clause 43, as amended, was added to the Bill.

Mr. SPEAKER.—The question is :

"That Clause 44 stand part of the Bill."

The motion was adopted.

Clause 44 was added to the Bill.

Clause 45.

Sri V. SRINIVASA SHETTY.—Sir, I beg to move—

"That Sub-Clause (3) shall be deleted."

Mr. SPEAKER.—Amendment moved :

"That Sub-Clause (3) shall be deleted,"

†Sri V. SRINIVASA SHETTY.—Sir, under the provisions of this Bill Government have got vast powers to grant permits, cancel permits, limit permits, etc. Even apart from that, they have incorporated this sub-clause (3). This is too arbitrary and too dictatorial. Under this sub-clause (3), they want power to cancel even without assigning any reason at any time. Why they want these arbitrary powers, I am unable to understand. It will harass the travelling public who come from outside the State. Suppose a gentleman from America or England comes here and for one reason or another he offends an official. Government means official. He can cancel the permit without assigning any, reason. The whims and fancies of Government should not be allowed free play in these matters. As it is, the sub-clause gives the fullest play for the whims and fancies of Government. So, in the interest of the travelling public I request that this sub-clause may be deleted.

Sri J. B. MALLARADHYA.—Sir, when this sub-clause (3) gives vast powers to cancel, I want to know what are these 'other reasons' that is provided for in Clause 47 ?

Sri VEERENDRA PATIL.—Unforeseen reasons may arise for cancellation of licences other than those that are enumerated in Clause 45. At the moment, I cannot say what are those 'other reasons'.

11-00 A.M.

Sri G. VENKATAI GOWDA.—In support of the amedment moved, I may submit that the Government cannot *suo motu* suspend or cancel a licence unless they get a report from the Deputy Commissioner. They have to call for a report from the concerned officer and if the officer does not recommend for cancellation or suspend, Sir they cannot do that. Therefore I submit that cancelling a licence without assigning any reason, is too much. When the officers want to suspend or cancel a licence they will have to necessarily assign a reason. Such being the case there is no meaning to say that the Government may cancel a licence without assigning any reason. This sub-clause 3 is unnecessary and requires to be deleted.

Sri VEERENDRA PATIL.—This is not a new clause inserted here. It is already in existence in the Mysore Prohibition Act and also in Madras Prohibition Act. Section 25 (2) of the Mysore Act and Section 23 (2) of the Madras Prohibition Act mention a similar Clause. This is a special power that the Government wants to have. If the members insist that it should be deleted, I have no objection. If the House is of the opinion that this provision is unnecessary I have no objection.

Mr. SPEAKER.—The question is :

"That sub-clause (3) shall be deleted."

The amendment was adopted

Mr. SPEAKER.—The question is :

"That Clause 45 as amended stand part of the Bill."

The motion was adopted.

Clause 45 amendmed was added to the Bill

Mr. SPEAKER.—The question is :

"That Clauses 46, 47 and 48 stand part of the Bill."

The motion was adopted.

Clauses 46, 47 and 48 were added to the Bill.

Mr. SPEAKER.—Clause 49. The member is not present.

Sri G. VENKATAI GOWDA.—Sir, I have been asked to move it.

Mr. SPEAKER.—It cannot be done. Unless there is a provision in the rules as in the case of a resolution, a member cannot authorise another member to move an amendment.

The question is :

"That Clause 49 stand part of the Bill."

The motion was adopted.

Clause 49 was added to the Bill.

Mr. SPEAKER.—The question is :

"That Clause 50 stand part of the Bill."

The motion was adopted.

(Clause 50 was added to the Bill).

Mr. SPEAKER.—Clause 51.

Sri D. H. RUDRAPPA.—Sir, I move :

"That for the words 'local area' the word 'area' shall be substituted."

Mr. SPEAKER.—Amendment moved :

"That for the words 'local area' the word 'area' shall be substituted."

Sri D. H. RUDRAPPA.—By saying local area: it restricts only to municipal or panchayat limits. So, just to extend this to other places, it is better to remove the word 'local' and have only the word 'area.'

Sri VEERENDRA PATIL.—I accept the amendment.

Mr. SPEAKER.—The question is :

"That for the words "local area" the word 'area' shall be substituted."

The amendment was adopted.

Mr. SPEAKER.—The question is:

"That Clause 51 as amended stand part of the Bill."

The motion was adopted.

Clause 51 as amended was added to the Bill.

Mr. SPEAKER.—The question is:

"That Clauses 52, 53, 54, 55, 56 and 57 stand part of the Bill."

The motion was adopted.

Clauses 52, 53, 54, 55, 56 and 57 were added to the Bill.

Mr. SPEAKER.—Clause 58. Sri B. G. Khot and Sri M. C. Narasimhan are not present.

Sri V. SRINIVASA SHETTY.—I move:

"That the provisos (i) (ii) and (iii) shall be deleted."

Mr. SPEAKER.—Amendment moved:

"The provisos (i) (ii) and (iii) shall be deleted."

†Sri V. SRINIVASA SHETTY.—Clause 58 provides for penalty for illegal import, etc., of intoxicants or hemp. The clause reads like this:

".....shall, on conviction, be punished—

(i) for a first offence, with imprisonment for a term which may extend to one year or with fine which may extend to one thousand rupees, or with both;

Provided that in the absence of any special and adequate reasons to the contrary to be mentioned in the judgment of the Court such imprisonment shall not be less than six months and fine shall not be less than five hundred rupees;

(ii) for a second offence, with imprisonment for a term which may extend to two years and with fine which may extend to two thousand rupees;

Provided that in the absence of special and adequate reasons to the contrary, to be mentioned in the judgment of the court, such imprisonment shall not be less than nine months, and fine shall not be less than one thousand rupees;

(iii) for a third and subsequent offences, with imprisonment for a term which may extend to two years and with fine which may extend to two thousand rupees:

"Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such imprisonment shall not be less than one year and fine shall not be less than one thousand rupees."

I do not know why the Government have got such a misapprehension about the courts. When they have fixed a maximum sentence,

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the judicial courts know the responsibility and any sentence they offer would be in accordance with the offence committed. Secondly, who has to judge the guilt of an offender ? The courts must be allowed to judge the nature of the guilt and the punishment they should give. They do that judging from all the evidence. But according to this, the court should not be allowed to judge. What should be the fine and imprisonment. That is to say, the powers of the court are sought to be taken away by the legislature and the courts are told that they should punish only in the manner indicated. When two or three acused are charged for a similar offence, they may not be entitled to similar punishment. Because the circumstances under which the offences are committed in each case may be different. The Courts generally do not awared the same sentence. So, if six months were to be awarded for all categories of offences, then that will not be a court at all. That will not be a judicial judgment at all. In this particular case, the astonishing thing is to take away the right of the court and say that minimum sentence should be inflicted on the accused. The Hon'ble Minister may say that they are going to give sufficient latitude to the courts. What is the latitude provided ? 'In the absence of sufficient and adequate reasons'; that is to say, if the court can give special and adequate reasons, it may inflict such sentence as they deem fit. That will be the argument of the Hon'ble Minister. What are special and adequate reasons ? We do not know. It is an argument just like India rubber which may be stretched to any extent. There will be an appellate court. The Appellate Court might find that the reasons are not adequate and special. If it simply says 'adequate reasons' I can understand. If it is special reason in every case, I do not know how many reasons could be given under that. For lesser sentence, they must give special and adequate reasons. Not giving latitude to court is extraordinary. It is against the canons of criminal jurisprudence. After all, we have not declared prohibition totally. In certain areas if a person commits that offence you seek to punish him ; but if he boozes himself a mile away you do not punish him ; a foreigner may come and commit that offence but he is not punished. I am told that one of the Hon'ble Ministers took objection to my using of the word 'barbarous'. I am prepared to use that word here also. This sort of judging things is very bad. I have been a criminal lawyer for a number of years. It offends all criminal justice. After all they are not executive magistrates. You have got judicial first class magistrates. To misjude them and to have no faith in these courts is very bad. Sir, if a court judges certain persons are guilty, let them give high sentence. I request the Hon'ble Minister for excise who himself is a lawyer not to offend Criminal jurisprudence to such an extent as he is doing, and I request him to delete the provision.

Mr. SPEAKER.—Now there are 1¼ hours more. There are a number of amendments. At this rate, I will have to apply guillotine at

12-30 P. M. because at that hour, all the readings of the Bill should be finished.

†Sri J. B. MALLARADHYA.—I am supporting the amendment of my friend Srinivasa Shetty. I have a fundamental objection. This proviso offends against judicial independence. Who is the Government to prescribe what should be done and who is the authority to prescribe the procedure for the Magistrate to judge that the reason is either special or adequate? There is a substantive punishment proposed in the Section itself. This proviso offends against all ideas of judiciary independent of executive and it is making in roads to all ideas of judicial independence. On that fundamental principle this proviso will have to be deleted. I have no other reason, and this is a more fundamental reason to which the Hon'ble Minister will have to agree. When the matter goes to a court, the Executive should have nothing to do with it. It is a kind of dictating terms to the judiciary. If you go on passing such laws and if the legislature is going to be a party in passing such laws, it makes the idea of separation of judicary from the Executive a mockery for which we fought so much and for so many years. It has become almost an accompolished fact now. This once again takes us to pre-independence days. With this fundamental reason, I support the amendment and request the Hon'ble Minister to withdraw this proviso.

Sri S. D. KOTHAWALE.—There appears to be some misapprehension regarding the independence of the judiciary. A statement is made by the Hon'ble Leader of the Opposition that we are trespassing upon the independence of judiciary. It is not the Executive or the Mysore Government that is passing this measure; it is this Hon'ble House that is passing this law. Therefore, we are within our rights to pass such laws and provide such punishments which we think are necessary for the implementation of the principles laid down in this Bill. The question of independence of judiciary does not arise and the question of offence against the criminal jurisprudence to which reference was made by the Hon'ble Member Sri Srinivasa Shetty also does not arise. It is for the judiciary to interpret or administer the laws which are passed by the legislature the judiciary cannot say what type of law, the legislature should pass. So, there is some confusion about this. These provisions will show that persons who commit offences will be meted out with certain minimum punishment and the intending offenders will know this fact and act accordingly. Let them obey the law. Unless some deterent provision is made it is very difficult to see that this prohibition legislation is going to be a success. Therefore the question of an inroad into judicial independence does not arise. There is no question of an inroad into the criminal jurisprudence also. Under these circumstances, the plea foward by the Hon'ble Members is not correct. I oppose the amendment.

† Sri VEERENDRA PATIL.—Sir, after the explanation given by the Hon ble Member Sri Kothawale, I do not feel any further explanation or clarification is necessary in this respect. As I have already while replying to the general debate, made clear the general policy of the Government, we want to see that deterent punishment is given to offenders in order to see that porhibition is a total success in our State. That is the policy behind it. We do not mean any disregard. It is not correct to say that Government do not have any confidence in the judiciary because we have left the entire matter to be decided by the court. They can decide whether there are adequate reasons or special reasons to release him with ut inflicting any punishment. It is for the judiciary to decide. It is not for us. We left it entirely to the judiciary. There is no question of expressing our lack of confidence in or disregard to the judiciary. These provisions are quite essential in order to see that prohibition is a total success. Therefore, I am sorry I cannot accept the amendment.

Mr. SPEAKER.—I will put the amendment to the House. The question is:

"That the provisos to items (i) (ii) and (iii) shall be deleted."

The amendment was negatived.

Mr. SPEAKER.—Sri Narasimhan has given notice of another amendment. He is not here. I will put Clause 58 to the House. The question is:

"That Clause 58 stand part of the Bill."

The motion was adopted.

Clause 58 was added to the Bill.

Mr. SPEAKER.—Clause 59. There are amendments.

Sri V. SRINIVASA SHETTY.—I beg to move :

"That the proviso to item (*d*) (i) shall be deleted."

"In items (ii) and (iii) for the word 'two', the word 'one' shall be substiuted."

"For the words 'second offence', the words 'second and subsequent offences' shall be substituted."

"The proviso to item (*d*) (ii) shall be deleted."

"The proviso to item (*d*) (iii) shall be deleted."

Mr. SPEAKER.—Amendments moved :

"That the proviso to item (*d*) (i) shall be deleted."

"In items (ii) and (iii) for the word 'two', the word 'one' shall besubstituted."

"For the word 'second offence', the word 'second and subsequent offences' shall be substituted."

"The proviso to item (*d*) (ii) shall be deleted."

"The proviso to item (*d*) (iii) shall be deleted."

Since Sri Narsimhan is not here, his amendments cannot be taken up.

†Sri V. SRINIVASA SHETTY.—This is a different category of offences "cultivation of hemp; collection of hemp or any portion of hemp, etc. consumption, use or possession or transportation of any intoxicant or hemp; tapping or permitting or suffering to be tapped, any toddy producing tree; drawing or permitting or suffering to be drawn toddy from any tree shall on conviction be punished—for a first offence with imprisonment for a term which may extend to six months or with fine, which may extend to one thousand rupees: Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than three months and fine shall not be less than five hundred rupees." I will take this portion first. In my speech I compared this clause with Clause 76. I would again request the House to consider these clauses together. Clause 59 (*b*) says: "consumes, uses, possesses or transports..." Let me take the two words 'consumes' and 'uses'. Any use of intoxicating liquor makes a person drunk. Clause 76 says: "Penalty for being drunk. (drunk means being drunk excessively) and for disorderly behaviour". For drinking and disorderly behaviour, my friend the Minister seems to have some misapprehension about these words. He seems to think that a person can be charged for consuming liquor and disorderly behaviour Under Section 59 as opposed to Section 76. He is wrong because Clause 76 says "Penalty for being drunk and for disorderly behaviour". For both these things, what is the penalty inflicted ?

"Whoever—

(1) in any street or thoughfare or public place or in any place to which the public have or are permitted to have access—

(*a*) is drunk and is incapable of taking care of himself, or:

(*b*) behaves in a disorderly manner under the influence of drink, or

(2) not being the holder of a permit granted under the provisions of this Act or is not eligible to hold

a permit Under Section 31, Section 34 or Section 37 is found drunk in any place, shall, on conviction, be punished—

(*a*) for a first offence, with imprisonment for a term which may extend to one month, and with fine which may extend to two hundred rupees.

We see that Under Clause 59 for consuming liquor he need not be drunk. Consumption is different from intoxication. A person may consume a pint of liquor and he need not be intoxicated, but a person who consumes liquor may be intoxicated, Intoxication means, one loses control of himself. So even a person who consumes liquor need not be intoxicated; he merely consumes liquor and such a person shall on conviction be punished for a first offence with imprisonment for a term which may extend to six months or with fine, which may extend to one

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thousand rupees, and such imprisonment shall not be less than three months and fine shall not be less than five hundred rupees. For being drunk and for disorderly behaviour, the punishment is, for a first offence, imprisonment for a term which may extend to one month, and fine which may extend to two hundred rupees and the minimum sentence is, not less than seven days' imprisonment and fine not less than twenty five rupees' I do not know where he got the argument that a person can be charged under Section 76 and then charged under Section 59. I read and re-read the whole Bill. I beg my honourable friends the lawyers to read the Bill again. Does it give any scope for such an interpretation at all? Can a person be charged under Section 76 and again under Section 59? Because Section 76 says that a person is charged for drinking and disorderly behaviour. How he can be charged under Section 76 and Section 59 passes my imagination. Both the sections are not compatible with each other, decency and administration of criminal justice. For this simple reason I say that under section 59 the offence is a lesser offence, at least under (b) the offences are lesser than the offences under section 76, they are much less. For a person who is not only drunk but a rowdy, you give a lesser sentence. For consuming you are giving six months, imprisonment, where as for consuming drink and disorderly behaviour you are giving only 15 days' imprisonment. Even very decent people drink. I do not consider a person who drinks is an indecent or a bad person. You may consider yourself as being a chela of Mahatma Gandhi as you are, you may think that a person who drinks is a very bad person; but I don't consider him to be so. I do not consider a person who takes a little drink to be a criminal. A person who drinks is given six months' imprisonment; but a person who goes out and behaves in a disorderly manner or who acts like a rowdy, is given only 15 days, imprisonment and Rs. 200 fine. This requires a little looking into by the Law Department, at least by the Honourable Minister. The argument which I advanced to the earlier clause applies to these provisos. The punishments awarded under sections 59 and 76 may be looked into and something done in the matter.

†Sri G. VENKATAI GOWDA (Palyam).—In supporting the amendment I may be permitted to submit that while making observations on the Bill, I brought home to this House the intention of the Constitution. Article 47 does not contemplate to prohibit mere taking of liquor, consumption. Consumption as we all know is a lesser offence; it does not do any harm to the society or to the person taking the drink. From that point of view you have got to consider mere taking a little drink, would it be injurious to the health of the person or harmful to the society. Of course, excessive drinking is bad and that is to be prohibited; that is what the directive principles of the Constitution say. Such being the case, I fail to understand why a lesser punishment is prescribed for excessive drinking and disorderly behaviour and a deterrent punishment for mere consumption. Would it satisfy the

principles of natural justice? Therefore, the argument advanced by my friend Sri V. Srinivasa Shetty is too good in this respect and it deserves to be conceded.

Secondly, the Minister has been pleased to reject the amendments that were given to section 58 provisos, to all these items restricting the courts, powers. The courts may not give minimum punishments if they so choose to assign special reasons. I do not know what those special reasons are. Even in respect of other provisos in this section, at least the Minister may be pleased to agree to delete these provisos. Supposing by force of circumstance, not only a man may commit an offence but also he may sincerely plead guilty and he may seek the mercy of the court; he may apologise before the court and the court should be given discretion to give punishments according to the force of circumstances. The court may award a sentence only till the rising of the court. Such thigs should be left to the discretion of the courts. We are proposing to award a higher punishment for consumption and lesser punishment to a person who drinks in excess and behaves in a disorderly manner in a public place. Punishments should be consistant with the gravity of the offence. I hope the Minister will consider this point.

11-30 A. M.

Sri VEERENDRA PATIL.—Sir, it appears there is some confusion and the Hon'ble Members have not correctly understood the provisions of clauses 59 and 76. Under clause 59, whether a person consumes excessive quantity or little quantity, it constitutes to be an offence. It is not correct to say that only excessive consumption should be considered an offence and not a little consumption. Anybody who consumes or uses liquor is liable for punishment.

Sub-clause (1) of clause 76 applies to persons who hold permits whereas clause 59 does not apply to permit holders. The wording of 76 is: 'penalty for being drunk and for disorderly behaviour'. Whereas, the wording of clause 59 is: "whoever, in contravention of the provisions of this Act, or any rule or order made, or any licence, permit, pass or authorisation issued thereunder cultivates or collects etc....." so, this is a act done without holding any lincense. Sub-clause (2) will be an additional punishment for the non-permit holders. If will be to give a different punishment under that clause. If a person is found drunk in a public place that is a separate offence under 76 (2). If a person is found in his room or house having consumed liquor without holding a permit, the punishment is under clause 59. If he goes in a drunken state to a public place, the section is if a person consumes in his house, he commits one offence and if he goes out and behaves in a disorderly manner in a public place, he commits another offence; so, he would have committed two offences and he is liable for these two punishments.

Sri G. VENKATAI GOWDA.—Sir, when a person consumes liquor in his house and if he is found out, he is punished under section 59. Supposing he is found elsewhere, how can we presume that he has consumed in his house and then he has come out? I think, this is not justifiable.

Mr. SPEAKER.—I think clauses 59 and 76 are linked together. So, we will take them up afterwards. The Hon'ble Minister may think over it. I will now put clause 60. The question is.

"That Clause 60 stand part of the Bill"

The motion was adopted.

Clause 60 was added to the Bill.

Mr. SPEAKER.—Clauses 61 and 62. The question is.

"That Clauses 61 and 62 stand part of the Bill"

The motion was adopted.

Clauses 61 and 62 were added to the Bill.

Mr. SPEAKER.—Clause 63. Sri. Narasimhan is not here. The question is.

"That Clause 63 stands part of the Bill".

The motion was adopted.

Clause 63 was added to the Bill.

Mr. SPEAKER.—Clause 64. Sri Narasimhan is not here. There is an amendment in the name of Sri Srinivasa Shetty.

Sri V. SRINIVASA SHETTY.—I beg to move.

"That the following proviso shall be added"

"Provided that no manufacturer of jaggery from sugarcane shall be liable for possession of molasses which is a by-product of the process".

Mr. SPEAKER.—Amendment moved.

"That the following proviso shall be added"

"Provided that no manufacturer of jaggery from sugarcane shall be liable for possession of molasses which is a by product of the process".

Sri VEERENDRA PATIL.—Sir, I am prepared to accept that amendment provided the following are added to it.

"and is not in excess of such quantity"

Mr. SPEAKER.—I will put the amendment to the amendment of Sri Srinivasa Shetty. The question is:

"and is not in excess of such quantity"

The amendment was adopted.

Mr. SPEAKER.—Now, I will put the amendment of Sri Srinivasa Shetty as amended: The question is.

"That the following proviso shall be added:—
Provided that no manufacturer of jaggery from sugarcane shall be liable for possession of molasses which is a byproduct of the process and is not in excess of such quantity."

The amendment was adopted.

Mr. SPEAKER.—Clause 64 as amended. The question is:

"That Clause 64, as amended, stand part of the Bill"

The motion was adopted.

Clause 64 as amended, was added to the Bill.

Mr. SPEAKER.—Clauses 65 to 74. The question is:

"That Clauses 65 to 74, both inclusive, stand part of the the Bill."

The motion was adopted.

Clauses 65 to 74, both inclusive, were added to the Bill.

Mr. SPEAKER.—Clause 75. The amendment is not in order. I will put the clause. The question is,

"That Clause 75 stand part of the Bill."

The motion was adopted.

Clause 75 was added to the Bill.

Mr. SPEAKER.—Clause 76 is held up. Clause 77. There is an amendment.

Sri V. SRINIVASA SHETTY.—I move:

"That the proviso to sub-clause (1) shall be deleted."

Mr. SPEAKER.—Amendment moved.

"That the proviso to sub-clause (1) shall be deleted."

†Sri V. SRINIVASA SHETTY.—Sir, I do not want to advance more argument on this.

"Whoever being the owner or occupier or having the use or care or management or control of any place, knowingly permits it to be used for the purpose of commission by any other person of any offence punishable under this Act, shall, on conviction, be punished with imprisonment for a term, which may extend to one thousand rupees, or with both"

"Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the Court, such imprisonment shall not be less than three months and fine shall not be less than five hundred rupees."

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Sir, even though some person in another House might have committed the offence, the owner is liable and that person is liable. Even in this the Government wants to restrict the hands of the court. All the arguments that could be said in this behalf have already been said. I request the Hon'ble Minister to permit the deletion of this proviso which is quite unnecessary in this clause.

Mr. VEERENDRA PATIL.—Sir, this has been discussed sufficiently and I have already given the explanation and the stand of the Government in this regard. I cannot accept the amendment.

Mr. SPEAKER.—The question is :

"That the proviso to sub-clause (1) shall be deleted."

The motion was negatived.

Mr. SPEAKER.—The question is :

"That Clause 77 stands part of the Bill."

The motion was adopted

Clause 77 was added to the Bill."

Mr. SPEAKER.—The question is :

"That Clause 78 stand of the Bill."

The motion was adopted

Mr. SPEAKER.—The next clause is, clause 79. There is an amendment.

Sri V. SRINIVASA SHETTY.—Sir, I beg to move :

" That in clause 79 the words " with imprisonment for a term which may extend to six months or " and " or with both" shall be deleted. "

Mr. SPEAKER.—Amendment moved :

" That the words " with imprisonment for a term which may extend to six months or " and " or with both " shall be deleted. "

†Sri V. SRINIVASA SHETTY.—This is a clause which penalises the doctor for issuing the medical certificate.

" If a registered medical practitioner issues a prescription with the intention that such prescription shall be used by the person to whom it is issued for the purpose of consuming liquor or intoxicating drug in contravention of the provisions of this Act, or rules or order made thereunder or any license, permit, pass or authorisation granted under this Act, he shall, on conviction, be punished with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees, or with both. "

Sir, we know it is very difficult to prove the intention in these cases. The very fact of giving a certificate or misusing may be considered an offence. And *mens rea* very rarely comes into the picture in these cases. Many a time, we know big persons like my Hon'ble friend may approach a doctor for a certificate and doctors generally oblige the persons of some status. Ordinary cooly will not be able to get such a certificate. It is very big persons who approach doctors, and doctors do oblige persons with a certificate. Ultimately what happens ? that big gentleman who obtains the certificate may misuse the certificate and the doctor may come in to trouble. The doctor may know nothing of that. The doctor never meant that the certificate should be misused. How can one find out the intentions of the doctor ? I am unable to understand. I approach a doctor for a medical certificate. The doctor issues a certificate. I misuse the certificate—how can the Doctor also be responsible for that ? I do not commit the offence in the presence of the doctor. I somehow and drink in my house and for that you are going to charge the doctor. I do not know how you have simply included a lot of things which are really dangerous. The doctors do give a certificate. It is very difficult even for a clever lawyer to prove a *bona fide* purpose. Bad doctors there are. But there are very good doctors. And if they are liable to come into the court, fine may be there. But why should you provide for imprisonment ?

Therefore I request the Hon'ble Minister to accept my amendment.

†Sri VEERENDRA PATIL.—Sir, this provision is made to check the issue of certificate indiscriminately. We are not binding or restricting the powers of the courts as in the case of other provisions which we have just now gone through. In this case, I would like to refer to the wording. It is not imprisonment 'and' fine, it is worded as 'imprisonment for a term which may extend to six months or with fine...'' The word 'or' is used in this clause. The court will take all facts into consideration at the time of awarding punishment. It is left to the discresion of the courts and we must rely upon the judiciary for utilising these provisions with due circumspection and before they inflict any punishment, they will take into consideration all these facts and I do not think unnecessarily the courts will harass the innocent doctors.

Therefore this provision is absolutely necessary. I cannot accept the amendment.

Sri V. SRINIVASA SHETTY.—Police will harass, not courts.

Sri VEERENDRA PATIL.—It is the the court that will punish. It is not necessary that imprisonment and fine should be awarded in each case. It is imprisonment 'or' fine. It is left to the discresion of the court.

Therefore I request the Hon'ble Member not to press this amendment.

Mr. SPEAKER.—The question is :

"That the words 'with imprisonment for a term which may extend to six months or' and 'or with both' shall be deleted."

The amendment was negatived.

Mr. SPEAKER.—I will put the clause.

The question is :

"That Clause 79 stand part of the Bill."

The motion was adopted.

Clause 79 was added to the Bill.

Mr. SPEAKER.—Clause 80. There is an amendment.

Sri V SRINIVASA SHETTY.—Sir, I beg to move :

"That for the words 'six months' the words "one year" shall be substituted."

Mr. SPEAKER.—Amendment moved :

"That for the words 'six months' the words 'one year' shall be substituted."

†Sri V. SRINIVASA SHETTY.—Sir, I do not know, this is a peculiar yardstick with which an offence is being judged. For consumption of liquor, one year's imprisonment and 1,000 rupees fine. For maliciously prosecuting a person, you want to award only six months imprisonment. The punishment is very lenient. There is no minimum punishment prescribed. I think the House will be pleased to see that the yardstick with which this Government is trying to judge the offence is really wonderful. For consumption of liquor, they have a minimum punishment. For deliberately and maliciously and falsely prosecuting a person and dragging him to a court and possibly getting him convicted and later on in appeal getting it quashed, that person is charged with six months imprisonment and fine of Rs. 1,000 and no minimum punishment. I do not understand why. I have not asked for any minimum punishment in my amendment. I simply say more deterrent punishment is necessary. Instead of six months, I say 'one year'. I do not know why such a bad and immoral person should not be given a little more punishment. I request the Hon'ble Minister to accept this simple amendment.

†Sri VEERENDRA PATIL.—Sir, the punishment provided here appears to be quite adequate because it is open to the person against whom false information is given to sue for damages against that person. He can proceed against him. Therefore the offence that is committed for comsuming liquor and the offence that is comitted by giving false information are not similar in nature. As there is already a provision for enabling a person whom false information is given to sue for

damages, I do not think any enhancement of punishment is necessary in this case.

Therefore, I cannot accept this amendment.

Mr. SPEAKER.—The question is

"That for the words 'six months', the words 'one year', shall be substituted."

The amendment was negatived.

Mr. SPEAKER.—The qustion is :

"That Clause 80 stand part of the Bill."

The motion was adopted.

Clause 80 was added to the Bill.

Mr. SPEAKER.—The question is :

"That Clauses 81 to 85 stand part of the Bill."

The motion was adopted.

Clauses 81 to 85 were added to the Bill.

Sri V. SRINIVASA SHETTY.—I beg to move :

"That in Clause 86—

the word 'or' at the end of item (a) shall be deleted ; item (b) shall be deleted."

Mr. SPEAKER.—amendment moved :

"That in clause 86—

the word 'or,' at the end of item (a) shall be deleted ; item (b) shall be deleted."

†Sri V. SRINIVASA SHETTY –Ordinarily as far as my experience goes a certificate or the report of an officer or doctor is not evidence. It is only a previous statement. Even a medical certificate has not got the authority of evidence and it is only a statement or observation by the doctor regarding the condition of the person and in support of that in a court of law the doctor gives evidence corroborating the contents of the certificate. So a certificate by itself is not evidence, but here you simply controvert the Evidence Act and say that certificate or report by itself is evidence.

Mr. SPEAKER.—Is it not in favour of the accused ?

Sri V. SRINIVASA SHETTY.—No. He can always summon them. Under Section 94 of the Criminal Procedure Code the accused is always entitled to summon the doctor, the register and the report, but here only an option is given. Ordinarily the doctor is not summoned at all, but the certificate or report is produced and evidence of the doctor is dispensed with and all these things become evidence. I say that the certificate should be produced and discretion should be given to the accused or the court to summon them to the court.

†Sri G. VENKATAI GOWDA.—In support of this amendment I would say that the present system is that the doctor will be summoned and he will be examined and asked to state the contents of the certificate given by him as otherwise it cannot be marked as exhibit. If the prosecution wants to get a certificate of the doctor marked, then necessarily he should be summoned and examined and then only it could be marked as exhibit. Now here they want to dispense with that procedure and straightway mark the certificate as evidence which is inadmissible under the Evidence Act Therefore this amendment is necessary.

†Sri VEERENDRA PATIL.—This amendment is not at all necessary because provision is made here that "the court may, if it thinks fit, and shall, on the application of the prosecution or the accused person, summon, and examine any such person as to the subject-matter of his certificate or as the case may be, report." So it is left to the discretion of the court or the accused person. On an application by the accused the court is bound to summon the doctor. So I do not know why (b) should be deleted. There need not be any misapprehension about this when there is a provision to summon the doctor and to examine him. So I request the Hon'ble Member to withdraw his amendment.

Mr. SPEAKER.—The question is :

"That in Clause 86—

the word "or," at the end of item (a) shall be deleted ; item (b) shall be deleted."

The amendment was negatived.

Mr. SPEAKER.—The question is :

"That Clause 86 stand part of the Bill."

The motion was adopted

Clause 86 was added to the Bill.

Sri V. SRINIVASA SHETTY.—I beg to move :

"That the proviso to sub-clause (2) shall be deleted."

Mr. SPEAKER.—amendment moved :

"That the proviso to sub-clause (2) shall be deleted."

†Sri V. SRINIVASA SHETTY.-I am only against one singular provision in this clause which is against all canons of criminal law. Section 103 of the Criminal procedure Code says that during the search of the house of an accused the witnesses should be of the locality. Not only that they should be respectable inhabitants of the locality. The Madras Act says that while entering the House all the persons entering the house including the police officers should be searched because as lawyers know many police officers have foised castes. A bottle of liquor can be within

the very thick uniform of a police officer and it can be foisted. That is the reason why it is provided there that all persons entering the house should be searched. Not only that it says that the witnesses should be of the locality and they should be respectable inhabitants of the locality. But here to our surprise this clause does not say that they should be of the locality. Fortunately, it does not say that they need not be respectable. Under this provision they may be anything because it does not say that they should be respectable whereas the procedure code says that they should be respectable inhabitants of the locality. I have narrated the instances of prohibition cases where utter scoundrels and ex-convicts are taken as permanent witnesses to all places. They are taken for all searches and they will be witnesses before the court. Is this the way by which this Gandhian followers are going to enforce prohibition ? I am very sorry for the Minister and for the people over him he governs. He is setting at nought the procedure Code and centuries of experience behind it, not only in India but even in other countries like England where the presence of respectable witnesses belonging to the locality is insisted upon for search. if they are persons of the locality, they would know the accused and if he is an innocent man they would protest against the treatment meted out to him. I do not know if my Hon'ble friend, the Minister has practised on the criminal side but if he had done so he would have realized the strength behind my point. My amendment is very reasonable and sensible and I request him to accept it.

12-00 NOON

†ಶ್ರೀ ವೀರೇಂದ್ರ ಪಾಟೀಲ್.—ಈ ಒಂದು ಕ್ಲಾಜು ನಾವು ಅನುಭವದ ಮೇಲೆ ತಂದಿದ್ದೇವೆ. ಅನೇಕ ಕಡೆ ರೇಡ್ ಮಾಡಲಿಕ್ಕೆ ಹೋದಾಗ ಜನ ಮುಂದೆ ಬರಲಿಕ್ಕೆ ತಯಾರಿಲ್ಲ. ಎಲ್ಲಿ ಇಲ್ಲಿಸಿಟ್ ಡಿಸ್ಟಿಲೇಶನ್ ಬೇಕಾದಷ್ಟು ನಡೆಯುತ್ತಾ ಇರುತ್ತದೆಯೋ, ಅಲ್ಲಿ ಯಾರೂ ಅದನ್ನು ಹೇಳಲಿಕ್ಕೆ ತಯಾರಿಲ್ಲ. ಇವತ್ತು ಇದೀ ನವಾಜ ಬೂತ್‌ಲೆಗ್ಗರುಗಳಿಗೆ ಭಯ ಪಟ್ಟಿದ್ದಾರೆ. ಆ ನವಾಚಾರ ಯಾರಾದರೂ ವರದಿ ಮಾಡಿದರೆ, ಮೂರನೇ ದಿವಸದಿಂದ ಅವರು ಜೀವನ ಮಾಡುವುದೇ ಬಹಳ ಕಷ್ಟವಾಗಿದೆ. ಈ ರೀತಿ ಪರಿಸ್ಥಿತಿ ಇರುವಾಗ ನಾವು ಏನಾದರೂ ಕೇಸು ಹಾಕಿ, ಕೋರ್ಟಿಗೆ ಎಳೆದು, ತಪ್ಪಿತಸ್ಥರಿಗೆ ಶಿಕ್ಷೆ ಕೊಡಿಸಿ ಬೇಕಾದಾಗ ಲೊಕ್ಯಾಲಟಿ ಜನ ಬರುವುದು ಹೇಗೆ, ಅವರು ಬಂದರೆ ಎಲ್ಲಿಯಾದರೂ ಬೇರೆ ಕಡೆ ಹೋಗಿ ಜೀವನ ಮಾಡಬೇಕು. ನನ್ನ ರಿಪ್ಲೈನಲ್ಲಿ ನಾನು ಹೇಳಿದ್ದೇನೆ ವರದಿ ಕೊಟ್ಟಿ ಮೇಲೆ, ಆಫೀಸುರುಗಳು ರೇಡ್ ಮಾಡಿದ ಮೇಲೆ, ನವಾಚಾರ ಕೊಟ್ಟವರ ಮನೆಲೂಟ್ ಮಾಡಲು ಕೊಲೆ ಸಹಿತ ಮೂಡುಬಿ ಹೋಗಿರುವ ಬೂತ್‌ಲೆಗ್ಗರುಗಳು ಇದ್ದಾರೆ. ಇಂಥ ಅನೇಕ ಉದಾಹರಣೆಗಳು ನಮ್ಮ ಗಮನಕ್ಕೆ ಬಂದಿವೆ ಅದಕ್ಕೋಸ್ಕರ ಈ ಪ್ರಾವಿಜನ್ ಮಾಡಲೇ ಬೇಕು ರೇಡ್ ಮಾಡಬೇಕಾದಾಗ ಯಾರೂ ಬರಲಿಕ್ಕೆ ತಯಾರಿಲ್ಲದಿದ್ದರೆ, ಏನು ಮಾಡಬೇಕು ? ಪೋಲೀಸಿನವರು ನುಮ್ಮನೆ ಮನೆಗೆ ಬರಬೇಕೊ? ಅವೇ ಲೊಕ್ಯಾಲಟಿಯು ಜನ ಸಿಗದೆ ಇರುವ ಸ್ಥಿತಿ ಬಂದಿದೆ. ನಮ್ಮ ನವಾಜದ ಸ್ಥಿತಿ ಹೀಗಿದ್ದರೆ, ಬೇರೆ ಲೊಕ್ಯಾಲಟಿಯ ಜನರನ್ನು ಕೆರೆದು ತೊಂದು ಹೋಗಬೇಕಾಗುತ್ತದೆ. ಇಲ್ಲಿ ರೆಸ್ಪೆಕ್ಟಬಲ್ ಪೀಪಲ್ ಬರಬೇಕೋ, ಅಲ್ಲವೋ ಅನ್ನುವ ಪ್ರಶ್ನೆ ಅಲ್ಲ. ಶಿರಿವಸ ಶೆಟ್ಟರು ಹೇಳಿದ ಹಾಗೆ ಕೆಲವು ಪ್ರೊಫೆಶನರ್ ಪಂಚಾಯತದಾರರನ್ನು ಯಾವಗಲೂ ಕಾದು ಕೊಂಡು ಹೋಗಿರೆ, ಕೋರ್ಟ್ ಅವರ ಸಾಕ್ಷ್ಯವನ್ನು ಮಿಚಾರದಲ್ಲಿ ಡಿಸ್ಬೆಡ್ ಮಾಡುತ್ತಾರೆ. ಲೊಕ್ಯಾಲಟಿಯಲ್ಲಿ ಪಂಚಾಯತು

(ಶ್ರೀ ವೀರೇಂದ್ರ ಪಾಟೀಲ್)

ದಾರರು ಹಿಂದೆ ಹೋದರೆ ರೇಡ್ ಮಾಡುವುದೇ ಬೇಡ ಎಂದು ಹೇಳುತ್ತೀರ ? ಎಕ್ಸಸಬರ್ ಕೇಸುಗಳಲ್ಲಿ ಈ ಪ್ರಾವಿಸೋಗೆ ಅವಕಾಶ ಇರುತ್ತದೆ. ಇದನ್ನು ಹೆವ್ಯಾಸ್ ಮಾಡುವ ಉದ್ದೇಶದಿಂದ ಮಾಡಿಲ್ಲ. ಶ್ರೀನಿವಾಸಶೆಟ್ಟರಿಗೆ ಸೌಕ್ ಕೆನರಾದ ಪರಿಸ್ಥಿತಿ ಗೊತ್ತಿದೆ ಎಷ್ಟು ಜನ ರೇಡ್ ಪಾರ್ಟಿಯೊಂದಿಗೆ ಬರಲಿಕ್ಕೆ ಸಿದ್ಧರಿವ್ದಾರೆನ್ನುವದು ಅವರಿಗೆ ಗೊತ್ತಿದೆ.

ಶ್ರೀ ಜೆ. ಬಿ. ಮಲ್ಲಾರಾಧ್ಯ.—ಪೋಲೀಸು ಸರ್ಚ್ ಪಾರ್ಟಿಯೊಂದಿಗೆ ಜನ ಸಾಮಾನ್ಯವಾಗಿ ಬರುವುದಿಲ್ಲ ಪೆಂದರೆ ಪೋಲೀಸಿನವರು ಅವರ ಮೇಲೆ ಏನೂ ಕ್ರಮ ನಡೆಸುವ ಹಾಗೆಯೇ ಇಲ್ಲವೇ ?

ಶ್ರೀ ವೀರೇಂದ್ರ ಪಾಟೀಲ್.—ಈಗ ರೊಕ್ಕಾಲಜಿಜನ ಬರುವ ಹಾಗೆ ಇಲ್ಲದಿದ್ದರೆ, ಏನು ಮಾಡುವುದು ? ಯಾವ ಪರಿಸ್ಥಿತಿ ಬರುತ್ತದೆ ನೋಡಿ ಎಕ್ಸಸಬರ್ ಕೇಸುಗಳಲ್ಲಿ ಪ್ರಾವಿಸೋ ಉಪಯೋಗವಾಗುತ್ತದೆ. ಆ ಒಂದು ಪರಿಸ್ಥಿತಿ ತಿಳಿದುಕೊಂಡು ಈ ಒಂದು ಅಮೆಂಡ್‌ಮೆಂಟನ್ನು ಪ್ರೆಸ್ ಮಾಡಬೇಡಿ.

ಶ್ರೀ ಜಿ. ಎಸ್. ಪುಟ್ಟಣ್ಣ.—ಏನಾದರೂ ಮಹಜರು ವಿಟ್‌ನೆಸ್ ಬರದೆ ಹೋದರೆ, ಸರ್ಕಾರ ವರಿಗೆ, ಪೋಲೀಸಿನವರಿಗೆ ಅವರ ಮೇಲೆ ಆಕ್ಷ ತೆಗೆದು ಕೊಳ್ಳುವುದಕ್ಕೆ ಅವಕಾಶವಿದೆ. ದಯೆಯಿಟ್ಟು ನೋಡಿ. The Police have got full power.

Mr. SPEAKER.—The question is.

"That the proviso to sub-Clause (2) shall be deleted."

The amendment was negatived.

Mr. SPEAKER.—The question is.

"That Clause 87 stand part of the Bill."

Clause 88

Sri V. SRINIVASA SHETTY.—I beg to move.

"That sub-clause (2) shall be deleted."

Mr. SPEAKER.—amendment moved.

"That sub-clause (2) shall be deleted."

† Sri V. SRINIVASA SHETTY.—Sir, this is a simple amendment. As explained by the Minister, the courts have the liberty of giving bail to persons or refusing bail. But I plead that an accused should as a matter of right be allowed to go on bail. Supposing the blood of an accused is sent for test and mean while the Magistrate, under the powers vested in him, refuses bail. Then the accused would be in jail for a month or two till the blood test results arrive. Supposing, no alchohol is found in the blood and ultimately he is acquitted. Imagining the enormous h rdships caused to the accused, who after all is innocent. The purpose of the law is to protect the inn cents, not to expose them to unnecessary and avoidable harrassement. The accused here is not a murderer. Only in extremely heinous offence, should bail be refused. This is a simple and reasonable amendment and I hope the Minister would accept it.

† Sri G. VENKATAI GOWDA.—I would draw attention to Clause 111 which allows the prohibition officers to let persons on bail even in respect of non-bailable offences. Such powers are not given to the investigating

officers even in the Criminal Procedure Code. Therefore Clauses 88 and 111 are contradictory. Such being the case I request that persons accused, should as a matter of rignt be let out on bail and with this end in view the amendment may be accepted.

†Sri VEERENDRA PATIL.—I have been repeatedly saying that the policy of the Government is to provide for deterrent punishment. Even in this case, after they are made non-bailable cases, it is left to the discretion of the investigating officer, even prohibition officer, to release according to the Criminal Procedure Code. The Police have got powers to release the accused on bail. I will quote the relevant section.

Sri G VENKATAI GOWDA.—That is a strange thing.

Sri VEERENDRA PATIL.—Section 497 of the Criminal Procedure Code reads :

> "When any person accused of or suspected of the commission of any non-bailable offence is arrested or detained without warrant by an officer in charge of a police station, or appears or is brought before a Court, he may be released on bail."...
>
> It is not mentioned that only the Court could release.
>
> "...but he shall not be so released if there appears reasonable grounds for believing that he has been guilty of an offence punishable with death or imprisonment for life."
>
> Sub-Section (2) reads :
>
> "If it appears to such officer or Court at any stage, of the inquiry or trial, as the case may be, that there are not reasonable grounds for believing that the accused has committed a non-bailable offence, but there are sufficient grounds for further inquiry into his guilt, the accused shall be released on bail.. at the discretion of such officer or Court."

Sri G. VENKATAI GOWDA.—But here you have made it non-bailable.

Sri VEERENDRA PATIL.—Even in non-bailable cases, not only the Court, but even the investigating officer has a right to release. Section 497 is quite clear.

Sri G. VENKATAI GOWDA.—If the officer during investigation finds that there is no reasonable ground that he has committed a non-bailable offence—that means the offence should be a bailable one. In such cases only the Court is authorised to release and not in cases where he has committed a non-bailable offence. There should be a limit for even interpretation. I appeal to the Chair, Sir.

Sri VEERENDRA PATIL.—There is no question of interpretation. The section itself is clear.

Sri J. B. MALLARADHYA.—I make special appeal to the Chair to kindly interpret the section. This is a very uneasy situation. I want the Hon'ble Chair to interpret it. We will take your decision. Please interpret it yourself. I am sorry I have to interfere and ask the

(Sri J. B. MALLARADHYA)

Speaker to specially interpret it. Our plea is that offences under this clause should not be made non-bailable.

Sri R. C. PATIL.—I request you kindly to accept the amendment. If it is not accepted, the minor agriculturists will be put to great hard ship. I request the Hon'ble Minister to accept the amendment.

Mr. SPEAKER.—Let us read Section 497 (2). If it appears to such officer, *i. e.*, the investigating officer or the Court at any stage of the investigation, enquiry or trial as the case may be that there are not resonable grounds for believing that the accused has committed a non-bailable offence—you see that Section 497 refers to non-bailable offences. If the accused.....

Sri VEERENDRA PATIL.—I request you to please read sub-section 3 also.

Mr. SPEAKER.—"The grounds—that there are no reasonable grounds for believing that the accused has committed a non-bailable affence":—that means he might not have commitfed any offence at all. After all, no offence might have been committed by him of a non-bailable nature. If there are grounds to believe that the accused has not committed an offence of a non-bailable character.

> "but there are sufficient grounds for further inquiry into his guilt, the accused shall, pending such inquiry, be released on bail, are at the discretion of such officer or Court, on the execution by him of a bond without sureties for his appearance as herein provided."

Sri G. VENKATAI GOWDA.—That is very clear, Sir.

Sri VEERENDRA PATIL.—May I request you to permit me to clarify further. I invite the attention of the Hon'ble Members to Section 497 (3):

> "An officer or a Court releasing any person on bail under sub-section (1) or sub-section (2) shall record in writing his or its reasons for so doing."

In sub-section (1) they have discussed the circumstances under which a person who has committed a non-bailable offence can be released. They say :

"An officer or a Court releasing any person on bail" You see, under sub-section (1), you say that only a court has authority. But we say, not only the Court, but also the investigating officer has got power. It is quite clear here.

> "An officer or a Court releasing any person on bail under sub-section (1) or sub-section (2) shall record in writing his or its reasons for so doing.

Sri G. VENKATAI GOWDA.—What is sub-section (1)

Sri VEERENDRA PATIL.—I shall read sub-section (1):

"When any person accused of or suspected of the commission of any non-bailable offence is arrested or detained without warrant by an officer in charge of a police station, or appears or is brought before a Court; he may be released on bail, but he shall not be so relesed... if he is believed to be guilty of an offence punishable with death or life imprisonment."

For all the other non-bailable offences, he may be released under sub-section (1). Under sub-section (1), who are the competent authorities to release him on bail? That has been defined in (3):

"An officer or a Court releasing any person on bail under sub-section (1) or sub-section (2) shall record in writing his or its reasons for so doing."

Mr. SPEAKER.—Let us read the section as it is.

"When any person accused of or suspected of the commission of any non-bailable offence is arrested or detained without warrant by an officer in charge of a police station, or appears or is brought before a Court, he may be released on bail, but he shall not be so released if there appear reasonable grounds for believing that he has been guilty of an offence punishable with death or imprisonment for life."

ನಾನ್ ಬೇಲಬಲ್ ಎನ್ನುವುದು,

Except in two cases of death and life imprisonment ಎಂದಿರುವುದರಿಂದ ಇಲ್ಲಿ ಬರುವುದಿಲ್ಲ. ಇದರಲ್ಲಿ ಎರಡು ವಿಚಾರವಿದೆ. ಪೊಲೀಸ್ ಆಫೀಸರು ಕೋರ್ಟಿಗೆ ಕರೆದುಕೊಂಡು ಹೋಗಿಬಿಡುತ್ತಾರೆ. ಇಲ್ಲಿ ಪೋಲೀಸ್ ಆಫೀಸರವರ ಕಸ್ಟಡಿಗೆ ಬರುವುದಿಲ್ಲ. ಆದರೂ "He may be released on bail" ಎಂದಿದೆ. It does not preclude the interpretation that a police officer who has a person in his charge in a police station who is suspected of a non-bailable offence is not entitled to give bail. He is entitled to give bail but under ordinary circumstances he does not use that power at all.

Sri VEERENDRA PATIL.—Sir, in spite of all this explanation, if they still holds that under the Criminal Procedure Code no police officer or investigating officer is competent to release an accused on bail, there need not be any further controversy on this point because we have already made a provision in Clause 111 of this Bill where any prohibition officer empowered to investigate an offence under this Act has been given the power to grant bail.

Sri G. VENKATAI GOWDA.—When there is provision made for this in the Criminal Procedure Code, where is the necessity for clause 111 in this Bill?

Sri G. N. PUTTANNA.—Clause 111 applies only to Prohibition Officers and empowers them to release the accused persons on bail where as Clause 104 empowers even a Constable to arrest a person.

Sri VEERENDRA PATIL.—We can consider them when we come to that clause.

Sri V.SRINIVASA SHETTY—Sir, even if that is the law, we know that in practice no police officer will dare release these people on bail. Ordinarily, the police officer will not take any risk at all in this matter as otherwise allegations might be made against him later on. He will detain the accused in prison and produce him in court and the discretion is left to the court. You club all petty and serious offences together. That is not fair. All persons, decent and indecent, will be detained in prison. Ultimately, the accused may be proved to be not guilty. So, making it a bailable offence will not harm anybody. So, in the interest of everybody make it bailable. I therefore request the Minister to agree to my amendment.

Sri VEERENDRA PATIL.—Sir, I have already explained what is the underlying policy in making these offences non-baliable offences. Only offences under clauses 58, 59 and 60 have been made non-bailable offences. Even then there is provision in this Bill and also in the Criminal Procedure Code under which the police officers and the court have got wide discretion to release the accused on bail. So, I am sorry I cannot accept the amendment.

Mr. SPEAKER.—The question is :

"That sub-clause (2) shall be deleted."

The amendment was negatived.

Mr. SPEAKER.—The question is :

"That Clause 88 stand part of the Bill."

The motion was adopted.

Clause 88 was added to the Bill.

Mr. SPEAKER.—The question is :

"That Clause 89 stand part of the Bill."

The motion was adopted.

Clause 89 was added to the Bill.

Clause 90.

Mr. SPEAKER.—Sri Veerappa is not present and Sri Srinivasa Shetty's amendment is not in order.

The question is :

"That Clause 90 stand part of the Bill."

The motion was adopted.

Clause 90 was added to the Bill.

Mr. SPEAKER.—Amendment to clause 91 is not admissible.

The question is :

"That Clause 91 stand part of the Bill."

The motion was adopted.

Clause 91 was added to the Bill.

MR. SPEAKER.—The question is:

"That Clause 92 stand part of the Bill."

The motion was adopted.

Clause 92 was added to the Bill.

MR. SPEAKER.—Amendment to Clause 93 is not admissible. The question is:

"That Clause 93 stand part of the Bill."

The motion was adopted.

Clause 93 was added to the Bill.

MR. SPEAKER.—The question is:

"That clauses 94 and 95 stand part of the Bill"

The motion was adopted.

Clauses 94 and 95 were added to the Bill.

(Sri Veerappa who had tabled an amendment to Clause 96 was not present)

MR. SPEAKER.—The question is:

"That Clause 96 stand part of the Bill."

The motion was adopted.

Clause 96 was added to the Bill.

MR. SPEAKER.—The question is:

"That Clauses 97 and 98 standpart of the Bill."

The motion was adopted.

Clauses 97 and 98 were added to the Bill.

12-30 P.M.

SRI J. B. MALLARADHYA.—I am sorry to state that with very great regret I have requested my friends on this side not to move any more amendments. On a matter of principle we wish to move no more amendments.

MR. SPEAKER.—The question is:

"That Clause 99 stand part of the Bill."

The motion was adopted.

Clause 99 was added to the Bill.

MR. SPEAKER.—The question is;

"That Clauses 100, 101, 102 and 103 stand part of the Bill."

The motion was adopted.

Clauses 100, 101, 102, and 103 were aded to the Bill.

Mr. SPEAKER.—Clause 104. The member is not present. Thequestion is :

"That Clause 104 stand part of the Bill,"

The motion was adopted.

Clause 104 was added to the Bill.

Mr. SPEAKER.—The question is :

"That Clauses 105, 106, 107 and 108 stand part of the Bill."

The motion was adopted

Clauses 105, 106, 107 and 108 were added to the Bill.

Mr. SPEAKER.—Clause 109. There is an amendment. The Hon'ble Member is not moving and so I will put the Clause.

The question is :

That Clause 109 stand part of the Bill.

The motion was adopted.

Clause 109 was added to the Bill.

Mr. SPEAKER.—The question is:

"That Clauses 110 to 120, both inclusive, stand part of the Bill "

The motion was adopted.

Clauses 110 to 120, both inclusive, were added to the Bill

Mr. SPEAKER.—Clause 121. The amendment given is not in order. The question is:

"That Clauses 121, 122 and 123 stand part of the Bill."

The motion was adopted.

Clauses 121, 122 and 123 were added to the Bill."

Mr. SPEAKER.—Clause 124.

Sri D. H. RUDRAPPA.—I move:

"That in item (m) of sub-clause (2), the words 'and of compensation to persons charged with offences punishable under this Act and acquitted,' shall be omitted."

Mr. SPEAKER.—Amendment moved:

"That in item (m) of sub-clause (2), the words 'and of compensation to persons charged with offences punishable under this Act and acquitted,' shall be omitted."

Sri D. H. RUDRAPPA.—In many cases the police will not be able to give evidence and in many cases they will be acquitted. If the Government wants to give compensation in all cases it will be a heavy commitment. So, it is not worthwhile. Therefore it may be omitted I hope the Minister will accept it.

Sri VEERENDRA PATIL.—I accept the amendment.

Mr. SPEAKER.—The question is :

"That in item (m) of sub-clause (2), the words 'and of compensation to persons charged with offences punishable under this Act and acquitted,' shall be omitted."

The amendment was adopted.

Mr. SPEAKER.—The question is :

"That Clause 124 as amended stand part of the Bill."

The motion was adopt d.

The Clause as amended was added to the Bill.

Mr. SPEAKER.—The question is :

"That Clause 125 to 128, both inclusive, stand part of the Bill."

The motion was adopted.

Clauses 125 to 128, both inclusive, were added to the Bill.

Mr. SPEAKER.—Clause 129.

Sri S. D. KOTHAWALE.—I move :

"That to sub-clause (3), the following proviso shall be added:—

"Provided that such repeal shall not affect—

(*a*) the previous operation of any such enactment or anything duly done or suffered thereunder ;

(*b*) any right, privilege, obligation or liability acquired, accrued, or incurred under such enactment ;

(*c*) any penalty, forfeiture or punishment incurred in respect of any offence committed against such enactment ;

(*d*) any investigation, legal proceeding or remedy in respect of such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid ;

(*e*) the levy of any duty or fee and the recovery of any duty or fee leviable under any such enactment; and any such investigation, legal proceeding or remedy may be instituted or enforced and any such penalty, forteiture, or punishment may be imposed, and any such duty or fee may be levied or recovered, as if such enactment had not been repealed :

Provided further, but subject to the preceding proviso, any appointment, notification, notice, order rule or form made or issued under any such enactment shall continue to be in force and deemed to have been made, or issued under this Act, unless and until it is superseded by anything done or any action taken under this Act, notwithstanding the fact that the authority competent to make or issue such notification, notice, order, rule or form is different from that authorised in the enactment repealed and notwithstanding also

(Sri S. D. KOTHAWALE)

that such notification, notice, order, rule or form was made or issued in a different form or name."

Mr. SPEAKER.—Amendment moved:

"That to sub-clause (3), the following proviso shall be added:

"Provided that such repeal shall not affect—

(*a*) the previous operation of any such enactment or anything duly done or suffered thereunder;

(*b*) any right, privilege, obligation or liability acquired, accrued, or incurred under such enactment ;

(*c*) any penalty, forfeiture or punishment incurred in respect of any offence committed against such enactment;

(*d*) any investigation, legal proceeding or remedy in respect of such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

(*e*) the levy of any duty or fee and the recovery on any duty or fee leviable under any such enactment; and any such investigation, legal proceeding or remedy may be instituted or enforced and any such penalty, forfeiture, or punishment may be imposed, and any such duty or fee may be levied or recovered, as if such enactment had not been repealed :

Provided further, but subject to the preceding proviso, any appointment, notification, notice, order, rule or form made or issued under any such enactment shall continue to be in force and deemed to have been made, or issued under this Act, unless and until it is superseded by anything done or any action taken under this Act, notwithstanding the fact that the authority competent to make or issue such notification, notice, order, rule or form is different from that authorised in the enactment repealed and notwithstanding also that such notification, notice, order, rule or form was made or issued in a different form or name."

Sri S. D. KOTHAWALE.—It is a most non-controversial amendment. It is a saving clause which is generally found in all enactments. Therefore it does not require any argument. It is intended to keep the previous enactments, orders, etc. effective. I hope the House will accept this amendment.

Mr. SPEAKER.—The question is :

That to sub-clause (3), the following proviso shall be added.

" Provided, that such repeal shall not affect.—

(*a*) the previous operation of any such enactment or anything duly done or suffered thereunder :

(*b*) any right, privilege, obligation or liability acquired, accrued or incurred under such enactment ;

(*c*) any penalty, forfeiture or punishment incurred in respect of any offence committed against such enactment ;

(*d*) any investigation, legal proceeding or remedy in respect of such right, privilege obligation, liability, penalty, forfeiture or punishment as aforesaid ;

(*e*) the levy of any duty or fee and the recovery of any duty of fee leviable under any such enactment; and any such investigation, legal proceeding or remedy may be instituted or enforced and any such penalty, forfeiture, or punishment may be imposed, and any such duty or fee may be levied or recovered, as if such enactment had not been repealed :

Provided further, but subject to the preceding proviso, any appointment, notification, notice, order, rule or form made or issued under any such enactment shall continue to be in force and deemed to have been made, or issued under this Act, unless and until it is superseded by anything done or any action taken under this Act, notwithstand the fact that the authority competent to make or issue such notification, notice, order, rule or form is different from that authorised in the enactment repealed and notwithstanding also that such notification, notice, order, rule or form was made or issued in a different form or name."

The amendment was adopted.

MR. SPEAKER.—The question is :

"That Clause 129 as amended stand part of the Bill."

The motion was adopted.

Clause 129 as amended was added to the Bill.

MR. SPEAKER.—The question is :

"That Clause 130 stand part of the Bill.

The motion was adopted.

Clause 130 was added to the Bill.

MR. SPEAKER.—The question is :

"That the Schedules A and B, stand part of the Bill."

The motion was adopted.

Schedules A and B were added to the Bill.

Mr. SPEAKER.—Clauses 59 and 76.

Sri VEERENDRA PATIL.—Those two Clauses may be retained as they are.

Mr. SPEAKER.—The Clause 59. The question is :

"That the proviso to item (*d*) (i) shall be deleted."

In items (ii) and (iii) for the word "two" the word "one" shall be substituted.

"For the words "second offence" the words "second and subsequent offences" shall be substituted."

"The proviso to item (*d*) (ii) shall be deleted."

"The proviso to item (*d*) (iii) shall be deleted."

The amendment was negatived.

Mr. SPEAKER.—The question is :

"That Clause 59 stand part of the Bill."

The motion was adopted.

Clause 59 was added to the Bill.

Mr. SPEAKER.—Clause 76. The question is :

"That in the second line of item (2) (*a*) for the word "and" the word "or" shall be substituted."

The amendment was negatived

Mr. SPEAKER.—The question is :

"That Clause 76 stand part of the Bill."

The motion was adopted.

Clause 76 was added to the Bill.

Mr. SPEAKER.—The question is :

"That Clause 1, the title and the preamble, stand part of the Bill."

The motion was adopted.

Clause 1, the title and the preamble were added to the Bill.

Motion to pass.

Sri VEERENDRA PATIL.—Sir, I beg to move:

"That the Mysore Prohibition Bill, 1959, as amended be passed."

MR. SPEAKER.—The question is :

"That the Mysore Prohibition Bill, 1959, as amended be passed."

The motion was adopted.

MR. SPEAKER.—The House will now rise and meet on Monday at 1 P. M.

The House adjourned at Forty Minutes past Twelve of the Clock to meet again at One of the Clock on Monday, the 28th August 1961.

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